



**Testimony of Connecticut Fund for the Environment  
Before the Commerce Committee**

Submitted by Roger Reynolds, Senior Attorney  
March 6, 2012

Regarding:

**H. B. No. 5344: AN ACT CONCERNING STREAMLINING THE STATE'S STORMWATER  
GENERAL PERMITTING PROCESS**

*Connecticut Fund for the Environment ("CFE") is Connecticut's non-profit environmental advocate with over 5,400 members statewide. For over thirty years, CFE has fought to protect and preserve Connecticut's health and environment.*

Senator LeBeau, Representative Berger and members of the Committee:

**CFE generally supports H.B. 5344** that would streamline the general permit process by allowing engineers to certify applicant compliance with stormwater requirements subject to DEEP audits of such certifications with the modification set forth below.

We do ask the committee to amend the audit requirement to have a goal of "auditing 10% of applications." As it is written, the "goal" is to audit "up to 10%" of applications which makes the terms "goal" and "up to" largely redundant. Indeed, the inclusion of the term "up to" makes the language largely meaningless as auditing 1% or even 0% of applications would have the effect of fully meeting DEEP's audit goal, which is not what we understand to be the intent of the bill.

We were concerned with earlier versions of this legislation distributed last session that did not include the audit goals. Stormwater General permits are subject to the requirements of the federal Clean Water Act. Without audits, this scheme would amount to self-regulation by consultants, which courts have found to be illegal under the Clean Water Act. *See, generally, Waterkeeper Alliance v U.S. EPA*, 399 F.3d 486, 498-504 (2d Cir. 2005). A vigorous audit system is therefore necessary for this streamlining measure to comply with Clean Water Act requirements for agency review. We are pleased that the Commerce Committee inserted this provision in response to our concerns.

For the reasons set forth above, CFE supports H.B. 5344 with the changes set forth above.